

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 16-CR-21

SAMY M. HAMZEH,

Defendant.

**UNITED STATES' NOTICE OF INTENT
TO OFFER EVIDENCE PURSUANT TO
RULE 404(b) OF THE FEDERAL RULES OF EVIDENCE**

The United States of America, by and through its attorneys, Matthew D. Krueger, United States Attorney, and Gregory Haanstad and Benjamin Taibleson, Assistant United States Attorneys, hereby provides notice to Defendant Samy M. Hamzeh of the United States' intent to offer the following other-acts evidence pursuant to Rule 404(b) of the Federal Rules of Evidence.¹

¹ The Defendant has repeatedly indicated that he intends to raise an entrapment defense. *See, e.g.*, Defendant's July 11, 2017 Reply in Support of Release ("Hamzeh will defend against the charged offenses by raising entrapment . . ."). When he does so, all of the evidence referenced in this Notice will also be admissible to show the Defendant's predisposition to commit the charged crimes. *See, e.g., United States v. Swiatek*, 819 F.2d 721, 728 (7th Cir. 1987) ("Evidence of other bad acts is also admissible to prove predisposition in an entrapment case, because in such a case the defendant's predisposition to commit the charged crime is legitimately at issue.")

1. Samy Hamzeh made statements to confidential human sources regarding his interest in, and plans for, committing mass killings at the Humphrey Scottish Rite Masonic Center and elsewhere. Those statements were recorded. For example, on January 19, 2016, Hamzeh was recorded saying, with regard to a mass killing:

HAMZEH: "Thirty is excellent. If I got out, after killing thirty people, I will be happy 100% . . . 100% happy, because these 30 will terrify the world. The mother fuckers will know that nobody can play with Muslims."

Hamzeh was also recorded on January 19, 2016 stating about the possibility of being killing or apprehended by law enforcement after committing a mass killing:

HAMZEH: How are they going to do it? They are not going to have a chance to make it man, we have silencers.

CHS: Yeah.

HAMZEH: Fuck them, quickly and quietly, quietly. Each one will grab a group, shoot them and get ourselves out walking not even running. Do not run out; walk.

CHS: Yeah.

HAMZEH: Just walk straight to the car and go, No one saw, no one heard.

Basis: The United States submits that Hamzeh could use, and stated he would use, machine guns and a silencer in order to commit a mass killing and, therefore, that evidence that Hamzeh made statements regarding his interest in, and plans for, committing mass killings is relevant to show his knowledge, intent, motive, plan, and absence of mistake with respect to the charged offenses of receiving and possessing machine guns and a silencer. Evidence that Hamzeh made these statements would tend to show that he knowingly and intentionally came to receive and possess machine guns and a silencer. That evidence would also tend to show his motive for receiving and

possessing those items, his plan to receive and possess them, and the absence of any mistake with regard to his receipt and possession of those items.

2. On January 19, 2016, Samy Hamzeh toured the Humphrey Scottish Rite Masonic Center in order to case it in furtherance of his plan to commit a mass killing there. He did so in the presence of two confidential human sources. Those sources audio recorded the tour and Hamzeh's statements during the tour.

Basis: The United States submits that Hamzeh planned to and could use machine guns and a silencer in order to commit a mass killing and, therefore, that evidence that Hamzeh toured the Masonic Center as part of his plan to commit a mass killing at the Masonic Center is relevant to show his knowledge, intent, motive, plan, and absence of mistake with respect to the charged offenses of receiving and possessing machine guns and a silencer. Evidence that Hamzeh toured the site of his proposed mass killing would tend to show that he knowingly and intentionally came to receive and possess a machine guns and a silencer he could use to commit that mass killing. That evidence would also tend to show his motive for receiving and possessing those items, his plan to receive and possess them, and the absence of any mistake with regard to his receipt and possession of those items.

3. Samy Hamzeh made statements regarding his interest in and commitment to waging jihad and martyring himself.

HAMZEH: I swear, we will start the war. We will start the war, it will be worldwide, and the whole world will be talking about it, the whole

world. They attacked the Masons. Those Masons man, are the most loved in the world. They say that they have control of the world.

CHS: I saw it on YouTube.

HAMZEH: [UI] we will attack them, I mean we will be the first to attack them. God willing if one of us dies, it would be okay.

CHS: A martyr.

HAMZEH: One hundred percent

Basis: The United States submits that Hamzeh planned to and could use machine guns and a silencer in order to wage jihad and martyr himself and, therefore, that evidence that Hamzeh wished to wage jihad and martyr himself is relevant to show his knowledge, intent, motive, plan, and absence of mistake with respect to the charged offenses of receiving and possessing machine guns and a silencer. Evidence that Hamzeh wished to wage jihad would tend to show that he knowingly and intentionally came to receive and possess a machine guns and a silencer he could use to commit that mass killing. That evidence would also tend to show his motive for receiving and possessing those items, his plan to receive and possess them, and the absence of any mistake with regard to his receipt and possession of those items.

4. Samy Hamzeh made statements regarding his belief that he may shoot and kill people who insult or threaten Islam because that is how one defends his religion. For example, on December 7, 2015, Hamzeh stated:

CHS: If someone tramples on the Quran in front of you, what would you do?

HAMZEH: [OV] if you shoot them, it is legal. If you shoot him, you go to Paradise, even if you die. If you hear someone cussing the Messenger, or cussing God or the Qur'an, you can shoot him, it is normal, there is nothing against you, [Background voices] because this is how you defend your religion.

Basis: The United States submits that Hamzeh planned to and could use machine guns and a silencer in order to “defend [his] religion” and, therefore, that evidence that Hamzeh wished to defend his religion via violence is relevant to show his knowledge, intent, motive, plan, and absence of mistake with respect to the charged offenses of receiving and possessing machine guns and a silencer. Evidence that Hamzeh wished to wage jihad and martyr himself would tend to show that he knowingly and intentionally came to receive and possess a machine guns and a silencer he could use to commit that mass killing. That evidence would also tend to show his motive for receiving and possessing those items, his plan to receive and possess them, and the absence of any mistake with regard to his receipt and possession of those items.

Dated at Milwaukee, Wisconsin, this 23rd day of July, 2018.

Respectfully submitted,

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